IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4227 OF 2006
(For Leave to Appeal)
IN
CRIMINAL APPEAL NO. OF 2006

The State of Maharashtra ..Applicant
Vs.
Abbas Abdul Kadir ..Respondent

Mrs. S.D. Shinde, APP for applicant-State.

**CORAM: B.H. MARLAPALLE & R.S. MOHITE,JJ.**

**Date : February 27, 2007.**

**P.C.:**

1. This is an application filed by the State under Section 378(3) of Cr.P.C. seeking leave to appeal against the order of acquittal of the respondent for an offence punishable under Section 376 of IPC.

2. We have heard the learned APP. The trial court has concluded and, in our view, rightly that the prosecutrix, who lodged the complaint after a substantial delay of over six months and when it was discovered that she was carrying a child of the accused, was the consenting party to the acts of intercourse. While doing so, the trial court has relied upon the evidence on record which indicates that the incident took place in a small residential premise which was located in a crowded locality. They

were living together openly in the said premises. A complaint appears to have been lodged only when the accused refused to marry the victim.

3. In our view the view taken by the trial court cannot be said to be perverse or unreasonable and this is, therefore, not a fit case for interference in an appeal against the order of acquittal.

4. Hence the application is rejected and consequently the appeal to stand dismissed.

**(R.S. Mohite, J.)** **(B.H. Marlapalle,J.)**